

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

HERSHMAN RECYCLING, INC.,	:
Plaintiff,	:
	:
-vs-	: Civil No. 3:01cv2211 (PCD)
	:
SUPER AMERICAN TISSUE, INC., <i>et al.</i> ,	:
Defendants.	:

RULING ON MOTION FOR DEFAULT JUDGMENT

On March 6, 2002, default entered against defendants Super American Tissue, Inc., American Paper Mills of Vermont, Inc., American Kraft Mills of Tennessee, Inc. and American Tissue Mills of Maine, Inc. for failure to plead or otherwise defend. On March 15, 2002, plaintiff moved for entry of judgment on default, appending to its motion affidavits of debt owed by defendants as a consequence of goods purchased from plaintiff on an open account for which no payments have been received. Defendant has not filed memorandum in opposition to plaintiff's motion.

Upon entry of a default judgment for "failure to plead or otherwise defend" against a complaint, a defendant admits every well-pleaded allegation of the complaint. *Transatlantic Marine Claims Agency, Inc. v. Ace Shipping Corp.*, 109 F.3d 105, 108 (2d Cir. 1997). A defendant does not, however, admit legal conclusions alleged in the complaint. *See In re Industrial Diamonds Antitrust Litig.*, 119 F. Supp. 2d 418, 420 (S.D.N.Y. 2000).

Plaintiff's claims alleging failure to pay for goods received are legally sufficient and, as the damages sought are sufficiently definite, *see Credit Lyonnais Sec. (USA) v. Alcantara*, 183 F.3d 151, 154 (2d Cir. 1999), it is entitled to default judgment as to the three primarily liable defendants. The

default judgment against the three primarily liable defendants conclusively establishes the liability of defendant Super American Tissue as guarantor of the debts of the other three defendants as it has notice of the claims against the other defendants. *See Lake County ex rel. Baxley v. Mass. Bonding & Ins. Co.*, 75 F.2d 6, 8 (5th Cir. 1935).

Plaintiff's motion for entry of judgment on default (Doc. 8) is **granted**. The Clerk shall enter judgment in the amount of \$889,570.09 as to defendant American Paper Mills of Vermont, Inc., \$135,796.26 as to defendant American Kraft Mills of Tennessee, Inc. and \$2,045,206.17 as to defendant American Tissue Mills of Maine, Inc. Judgment shall enter in the amount of \$3,070,572.52, or the aggregate of the claims against the three other defendants, as to defendant Super American Tissue on the claim against it as guarantor, but in no event is plaintiff is entitled to a recovery in excess of \$3,070,572.52 from all defendants. The Clerk shall close the file.

SO ORDERED.

Dated at New Haven, Connecticut, April ___, 2002.

Peter C. Dorsey
United States District Judge